



TOWN OF BEAUX ARTS VILLAGE

TOWN COUNCIL MINUTES

January 9, 2007

Leider

Mayor Wells called the meeting to order at 7:00 pm.

PRESENT: Mayor Judee Wells, Councilmembers Aaron Sharp, Richard Leider, Tom Robinson and Bruce Young.

EXCUSED: Councilmember Carol Clemett.

STAFF: Clerk-Treasurer Sue Ann Spens, Water Dept Supervisor Bob Durr.

GUESTS: Jim and Julie Finnell, Dick Johnson, Jeff Jochums, Jeff and Kris Moore, Andy and Robin Stefan, Ann-Mari Simonsen, Helen Lewis, Warren Klink, Gerri Armbruster, Scott Harpster, Joan Bromberg, Forrest Kulp, Julia Morse, Brad Wheeler, Steve Matsudaira, Pam Donoghue, Pam Cowan, Steve Miller, John Rose, Hank Heckendorn.

MINUTES: Councilmember Leider moved to approve the December 12, 2006 minutes as written. Councilmember Robinson seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

WARRANTS: Councilmember Robinson moved to approve the December 31, 2006 warrant list, including warrant numbers 7226 through 7243 in the amount of \$12,854.36.

Councilmember Leider seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

Councilmember Leider moved to approve the January 9, 2007 warrant list, including warrant numbers 7244 through 7256, including voided warrant numbers 7248 and 7255, in the amount of \$7,695.45. Councilmember Robinson seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

CLERK'S REPORT:

COUNCIL MEETING CALENDAR FOR 2007: Clerk-Treasurer Spens noted that the 2007 Council Meeting Calendar is provided here and will be posted on the Town website. She asked Councilmembers to please notify her as soon as possible if they have a conflict with a date on which they are scheduled to host the meeting.

MEETING WITH KING COUNTY SHERIFF'S LIAISON: Clerk-Treasurer Spens reported that Major Dave Germani, the Town's liaison with the King County Sheriff's Office, has confirmed that he will attend the February meeting to discuss recent events in the Town and how the Council can help its citizens be prepared for similar events in the future. She asked the Councilmembers to let her know of any specific questions they would like Major

Germani to address by February 6, 2007 so that she can forward them to Major Germani prior to the meeting.

MARSHAL'S REPORT: No report.

WABA REPORT: WABA Representative Gerri Armbruster reported that the Winter Dinner is scheduled for January 27, 2007 at St. Thomas Church in Medina. She added that the event will include a social hour, dinner, and a WABA membership meeting at which one new trustee will be elected.

Ms. Armbruster also reported that WABA is working to update their bylaws and hope to bring a final draft to the membership for a vote in February 2007 and that the Forest Commons Committee plans to make a presentation to the membership in March.

WATER REPORT: No report.

PUBLIC HEARING: REVIEW OF MORATORIUM ON TREE-CUTTING AND DEVELOPMENT OF TREE-MANAGEMENT PLAN: Mayor Wells opened the public hearing at 7:10pm and explained that the Council enacted an emergency moratorium last November to protect trees while the Council completes a plan for managing trees throughout the Village. She added that the moratorium includes exceptions that allow limited cutting.

Mayor Wells further explained that because the moratorium was enacted on an emergency basis, state statute requires the Council to hold a public hearing within 60 days of its passage. She added that this public hearing fulfills the hearing requirement and is intended to help the Council decide whether to extend the moratorium while the Council completes a draft plan for managing the removal of trees in Beaux Arts and what the general timetable for completing a draft plan will be. She then summarized that the outcome of this public hearing will be a Council decision to let the moratorium expire on January 13, 2007 OR to extend the moratorium for no more than one year with a timetable for passing a tree-management plan.

Mayor Wells then asked Robin Stefan to give a brief summary of the various regulations that other area cities have enacted to manage their trees. Robin Stefan began by stating that she reviewed the Tree Ordinances for Hunts Point, Medina, Woodway, Mercer Island and Issaquah and prepared a spreadsheet outlining where these regulations are similar and where they differ. She then commented that all five cities define a "significant tree" and require a permit for its removal and some form of replacement planting, though the rules and process vary. She added that each city requires an arborist report on the condition of the tree to be removed and that each allows the removal of dead, dangerous, or diseased trees.

Mayor Wells then invited general comments from the audience and asked each speaker to keep their comments as brief as possible to allow everyone an opportunity to speak. Clerk-Treasurer Spens added a reminder that each speaker should identify themselves by name for the record before making comments.

Julia Morse commented that she has forwarded a letter from Julie Stofel with the Washington

State Dept. of Fish and Wildlife outlining some suggestions for revising the Issaquah Tree Ordinance to fit Beaux Arts and suggesting ways to improve residents' understanding of the restrictions in the vicinity of eagle nests. She added that she supports extending the moratorium and would like to see a process that prevents the topping of trees because it is a dangerous practice.

Forrest Kulp stated that he does not support the moratorium. He recommends improving Villagers' education about maintaining desirable trees.

Joann Bromberg stated that she supports continuing the moratorium and the development of a permit process for managing trees.

Scott Harpster stated that he does not support the moratorium but agrees that the Town needs a permit process to ensure the replacement of trees on private property. He added that he wonders just how many significant trees remain on private versus public property.

Gerri Armbruster stated that she supports a short extension of the moratorium and the development of a permit process for managing trees.

Warren Klink stated that he is new to the Village and wants the Council to know that he appreciates the thoughtful approach they are taking.

Helen Lewis stated that she supports extending the moratorium to allow time to study how best to manage our trees.

Ann-Mari Simonsen stated that she favors continuing the moratorium. She then asked if WABA did not have some historical position on tree-cutting that might be useful to the Town in this endeavor.

Andy Stefan stated that he supports continuing the moratorium and developing a permit process for cutting significant trees that requires replanting.

Robin Stefan stated that she supports continuing the moratorium. She added that education is a wonderful idea but that it doesn't always translate in practice as we have seen recently in the Village.

Dick Johnson stated that he supports continuing the moratorium and suggested that the Council give serious thought to appropriate penalties for ignoring the rules. He added that BAV is unique in large part because of our trees, which should be treated with great care.

Bob Durr stated that he supports continuing a moratorium of extremely limited length.

Julie Finnell stated that she does not support continuing the moratorium as she feels people should have the right to remove trees they feel are dangerous, whether the Town agrees with that assessment or not. She added that she wants to allow property owners to decide for themselves whether to protect, preserve, or replace trees on their property.

Steve Miller stated that he believes that BAV has a wooded character and he is reluctant to see that lost. He added that the wooded character is what draws some people to the Village and that residents used to have a strong shared ethic for preserving treed lots, adding that the trees on one property affect all of the nearby properties. He commented that he wants to see a deliberate process enacted that achieves a fair balance so that the collective result is of benefit to everyone in the Village.

Brad Wheeler encouraged the Council to involve an arborist in the decision process.

John Rose stated that he does not support the moratorium or a process for controlling tree cutting. He added that he trusts his neighbors and feels there is more to be lost by creating more rules than will be gained, because when the public feels government is overstepping its bounds on small matters they become less willing to assist in achieving the larger goals.

Pam Cowen stated that she supports continuing the moratorium for a limited length of time and developing a permit process for cutting significant trees due to their impact on the Town's character.

Steve Matsudaira stated that he supports continuing the moratorium and asked that the draft tree-management plan include the preservation of eagle habitat as one of its goals.

Jim Finnell stated that he does not support continuing the moratorium adding that he is concerned with Town's inability to enforce some of its current rules.

Jeff Jochums stated that he doesn't like the idea of a moratorium but he enjoys the feeling that the trees add to Village.

Jeff Moore stated that he moved here in 1968 and chose to live in Beaux Arts largely because of the trees. He explained that he does not support the moratorium because property owners should be allowed to enjoy the limited restrictions that existed when they purchased their property. He added that that many regulations affecting property over the last 15 years have been overreaching though a permit process for tree cutting might be a good idea.

Hank Heckendorn stated that he does not support the moratorium or the development of a process for regulating trees on private property. He commented that he prefers a voluntary process for managing trees in the Town.

Mayor Wells asked for any additional comments from the public. Clerk-Treasurer Spens noted that she received emails from the following residents in support of the moratorium: Peter and Ann Bowen, Paula Dix, Sylvia Hobbs, Tom Stowe, John and Heidi Chihak, Dennis Casey, Jane Leffingwell, and Bill Armbruster. She added that she received no emails in opposition to extending the moratorium.

As there were no additional comments from the public, Mayor Wells closed the public hearing at 8:05pm. Clerk-Treasurer Spens distributed a revised agenda bill for this

discussion and explained that tonight's Council action should address whether to extend the moratorium for a period not to exceed one year. She added that, because the anticipated regulations will affect land use, the Planning Commission will have to review any draft legislation and hold their own public hearing on that legislation prior to the Council taking final action noting that this review will add at least two months to the Council's timeline. She also reminded the Council that if the moratorium is extended, the Council will have to prepare findings listing specific reasons for the extension and outlining the Council's work plan with deadlines for completion.

Mayor Wells summarized the public comments stating that there seems to be support for continuing the moratorium and for developing a permit process to manage trees. She added that some residents want clear limits on the process. She then asked Councilmembers for their comments.

Councilmember Leider opened by stating that he understands the driving force behind this moratorium but that he strongly agrees with the comment "I trust my neighbors", which is philosophically opposed to the moratorium. He expressed some concern about the wording in Ordinance No. 343 imposing the moratorium because it is silent with regard to trimming trees and the criteria for an exception are set too high. He offered that the language in paragraph 2.1 should be changed from "immediate and imminent danger" to "reasonably foreseeable danger" and in paragraph 2.3 from "the exception is the minimum necessary" to "the exception is reasonably necessary".

Councilmember Sharp agreed that he doesn't care for the idea of the moratorium but public attendance at this hearing seems to support continuing the moratorium for a limited period of time until tree-management legislation can be enacted. He asked that the Council commit to completing a draft tree ordinance in three months or less so that the Planning Commission can have two months to review it at a public hearing and return it to the Council for passage in six months or less. He also noted that each significant tree impacts approximately 400 sq. ft. of property, which means that smaller or heavily treed lots will be impacted more by any new regulations than lots that are already cleared or are larger.

Mayor Wells commented that the Council seems to be moving toward a permit process which will allow tree removal while still controlling it. She added that it is the fear of an outright prohibition that drives excessive cutting and that if the Council demonstrates with draft language that prohibition is not the intent of this process, we may be able to allow the moratorium to expire prior to full passage of the new regulations.

Councilmember Young expressed his support for extending the moratorium as it is currently worded for up to the full year so the Council has time to craft the best ordinance possible. He noted that he is the one interpreting the language and his approach has been reasonable. He added that passage of the moratorium has generated a lot of public interest in this issue and that he hears many more residents expressing support for preserving our trees than in earlier years.

Councilmember Robinson stated that he supports extending the moratorium for the minimum

amount of time it should take to prepare language to institute a simple permit process. He added that if we create complex rules, they may be difficult or expensive to enforce. He commented that he would like to trust his neighbors also but that recent experience has shown that some neighbors are not interested in preserving that trust. He also reminded that Council that removing some trees can actually create more hazards because of the grove effect.

The Council then discussed changes to the wording of the existing moratorium and how much time would be adequate for crafting a tree-management plan.

MOTION: Councilmember Young moved to extend the moratorium as written for one year. Motion died for lack of a second.

MOTION: Councilmember Leider moved to extend the moratorium for six months with language amended as follows: in paragraph 2.1 replace “immediate and imminent” with “reasonably foreseeable”, in paragraph 2.3.1 strike the words “an undue”, in paragraph 2.3.2 strike the word “special”, and in paragraph 2.3.3 replace “the minimum” with “reasonably”. Councilmember Sharp seconded.

On discussion, Councilmember Young stated that he does not want to change the language of paragraph 2.1 adding that if a certified arborist says the tree is safe and a homeowner doesn’t agree, the homeowner can get a second opinion. Clerk-Treasurer Spens pointed out that the conjunction between the paragraphs is “OR” not “AND” so each exception listed stands on its own merit. Councilmember Young also stated that the moratorium should be extended nine months to allow a reasonable amount of time for the process.

MOTION: Councilmember Leider moved to amend his motion to allow paragraph 2.1 to stand as written and to extend the moratorium for nine months. Councilmember Sharp seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried and original motion is amended to extend the moratorium for nine months with language amended as follows: in paragraph 2.3.1 strike the words “an undue”, in paragraph 2.3.2 strike the word “special”, and in paragraph 2.3.3 replace “the minimum” with “reasonably”.

Vote on amended motion: 4 For, 0 Against, 0 Abstain. Motion carried.

Clerk-Treasurer Spens will work with Mayor Wells and Town Attorney Stewart to develop findings of fact to support this extension and an ordinance extending the moratorium and setting forth the Council’s plan for completing a tree-management plan.

PROPOSED ORDINANCE NO. 347 IMPOSING AN ADDITIONAL ¼% REAL ESTATE EXCISE TAX ON PROPERTY SOLD IN BEAUX ARTS: Mayor Wells opened the public hearing at 9:05pm. She explained that the Council is considering imposing this additional ¼% REET to fund capital projects in Beaux Arts, typically street overlays. She also explained that the increased funding is needed because the cost of street projects has increased substantially over the last two years drawing down the Town’s reserves for capital projects significantly. She then asked for comments from the public.

John Rose commented that this issue came before the Council last year and was voted down

because no specific need for the funding had been identified and quantified in a capital-projects plan.

Councilmember Leider explained that the Town's current reserves are not adequate to fund our anticipated needs for normal street maintenance over the next four years and the additional revenue generated by the REET will provide the funding needed. Councilmember Sharp added that in addition to rapidly escalating roadwork costs, the Town's stormwater conveyance system is in poor shape and will require upgrading in the near future also.

Julia Morse seconded John Rose's comments. Hank Heckendorn agreed that the Town should not increase taxes unless a specific need has been identified.

Bob Durr commented that he is not in favor of the REET because it is levied against a handful of residents but benefits many.

Mayor Wells asked for additional comments. As there were none, she closed the public hearing at 9:15pm. The Council then discussed the appropriateness of the REET as a revenue source versus other revenue sources, e.g. utility taxes and reaffirmed their decision to implement the REET.

MOTION: Councilmember Leider moved to approve Ordinance No. 347 imposing an additional ¼% excise tax on real estate sales in the Town of Beaux Arts Village.

Councilmember Robinson seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

PROPOSED RESOLUTION NO. 233 SETTING FEES FOR VARIOUS SERVICES AND PERMITS WITHIN THE TOWN OF BEAUX ARTS VILLAGE: Clerk-Treasurer Spens explained that this resolution makes the following fee changes in line with the Council's discussions last month:

- increases the base charge for the first 1400 cf of water from \$35.00 to \$40.00 every billing cycle, which is every two months, and increases the overage surcharge for each 100 cf of water used over the 1400cf allowance from \$0.90 to \$1.00;
- increases the late fee on water accounts from \$2.00 to \$5.00; and
- increases the fee for mechanical permits from \$50 to \$100 to better cover the cost of inspection and stipulates that permit holders will reimburse the Town for costs that exceed fees paid.

MOTION: Councilmember Robinson moved to adopt Resolution No. 233 setting fees for various services and permits within the Town of Beaux Arts Village. Councilmember Sharp seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

PROPOSED RESOLUTION NO. 234 AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT FOR WATERSHED BASINS WITHIN WRIA8:

Clerk-Treasurer Spens recounted the Town's involvement with WRIA8 and highlighted some of that group's accomplishments. She also noted that the Town's share of the cost of

these activities has been less than \$150 per year, which is not expected to change.

Councilmember Young added that he will be the Town's new representative at WRIA8 meetings, replacing former Councilmember Betty Heckendorn.

MOTION: Councilmember Sharp moved to adopt Resolution No. 234 authorizing the Mayor to execute an Interlocal Agreement for Watershed Basins within WRIA8.

Councilmember Leider seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

PROPOSED ORDINANCE NO. 348 ESTABLISHING THE SEATTLE TIMES AS THE OFFICIAL NEWSPAPER OF THE TOWN: Clerk-Treasurer explained that the King County Journal has been the Town's official newspaper for many years but that paper will cease daily publishing and become a bi-weekly publication. She stated that this change is prudent so that the Clerk-Treasurer and Deputy Clerk have adequate flexibility in the timely publication of hearing notices.

MOTION: Councilmember Leider moved to pass Ordinance No. 348 establishing the Seattle Times as the official newspaper of the Town. Councilmember Sharp seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

MAYOR AND COUNCILMEMBER REPORTS:

BUILDING SERVICES PROVIDER: Councilmember Sharp reported that he has made significant progress in locating a replacement building-services provider for the Town and has narrowed his search down to two individuals with their own firms. He added that he hopes to have one chosen and a draft contract ready for Council review at the February meeting and stressed that the contract must clearly state the duties of the provider and the remuneration for those services so that both the provider and the Council fully understand it.

WINDSTORM DAMAGE: Councilmember Sharp reported that he has filled out the FEMA application form requesting reimbursement for windstorm-related clean-up and repair costs and is submitting it soon. He explained that reimbursement funding only becomes available if the storm-related costs for the region exceed some threshold dollar value.

TREE MANAGEMENT: Councilmember Young reported that a few residents have decided to ask for second opinions on the health of trees. He noted that he has been using Trees for Life to make these assessments, because their investigation costs nothing – they make money when a tree is removed – and that he has been happy with their work. He then asked if the Council thinks he should be using a professional arborist who has no financial interest in the removal of the tree. It was the consensus of the Council that Councilmember Young has been handling these issues appropriately and that they would prefer he continue to make these decisions.

EMERGENCY PREPAREDNESS: Councilmember Robinson reported that he, Councilmember Young and Town Marshal Scott will be working with the City of Bellevue to

start neighborhood emergency-preparedness training. He also reported that Chuck Lowry has upgraded his HAM operator's license.

UNDERGROUND UTILITIES: Councilmember Leider reported that he is reviewing his early investigation of the cost to underground utilities in light of the severe windstorm and will bring more information to the Council soon.

STREET LIGHTS: Clerk-Treasurer Spens noted that there are an unusually large number of street lights that are not lighted and that the street light at the north end of 107th Ave SE, which was destroyed by the windstorm, has not been replaced. She will speak with Puget Sound Energy about restoring our street lights and replacing the destroyed light.

It was the consensus of the Council that Aaron Sharp and Scott Harpster deserve special thanks for taking the lead on clearing the Town's roads of debris from fallen trees and limbs after the windstorm.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council the February meeting is scheduled for February 13th at Councilmember Clemett's house.

ADJOURN: Councilmember Sharp moved to adjourn the meeting at 10:05pm. Councilmember Leider seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens
Clerk-Treasurer